



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, PORTLAND DISTRICT
PO BOX 2946
PORTLAND OR 97208-2946

REPLY TO
ATTENTION OF:

March 6, 2014

Operations Division
Regulatory Branch
Corps No.: NWP-2011-464

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Dale Stockton, Port Commission Chair
Port of Nehalem
PO Box 476
Nehalem, Oregon 97131

NOTICE OF NONCOMPLIANCE

Dear Mr. Stockton:

A recent inspection /information received in this office indicates the Port of Nehalem has not complied with the terms and/or conditions of the Department of the Army (DA) permit number NWP-2011-464 for work in the Nehalem River, near Deer Island, in Section 27, Township 3 North, Range 10 West, City of Nehalem, Tillamook County, Oregon. Specifically, the Port of Nehalem has not complied with the following condition of the DA permit:

- 1. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the U.S Army Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.*

In a letter dated June 4, 2013, the Corps requested that the Port of Nehalem develop a remedial measures plan to address the dredge material mounds that formed in the channel as a result of project activities. The Port of Nehalem provided the Corps and the Oregon Department of State Lands with a remedial measures plan dated July 16, 2013. In this remedial measures plan the Port of Nehalem committed to having the material removed from the channel by February 15, 2014 if the material did not disperse prior to that date. The Port of Nehalem failed to implement the remedial measures plan as identified.

It is my responsibility as District Commander to issue this Notice of Noncompliance. My staff is conducting an investigation to determine the most appropriate enforcement action to address the alleged violation.

The Department of Army Code of Federal Regulations require the Corps to inform the Port of Nehalem that the enforcement options available may entail actions in Federal District Court for fines and injunctions requiring work cessation and/or restoration. The court may also require the actions necessary to bring the project into compliance be performed by a third-party and funded through a money judgment against the permittee. On an administrative level, the permit may be suspended, revoked or modified.

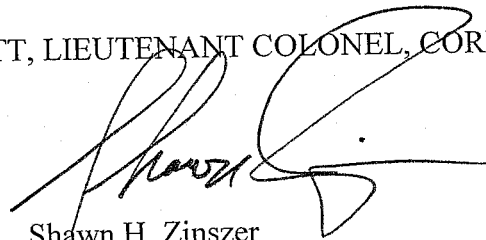
Please acknowledge receipt of this letter within 15 days. With the acknowledgement, the Port of Nehalem should provide any information concerning why the Port did not comply with the terms and conditions of the DA permit and the agreed upon remedial measures outlined in the Port's letter dated July 16, 2013.

Please direct the Port of Nehalem's response to the following:

Ms. Kristen Hafer
U.S. Army Corps of Engineers
P.O. Box 2946
Portland, Oregon 97208-2946

Should the Port of Nehalem have any questions, please contact Kristen Hafer at the above address, by telephone at (503) 808-4387 or e-mail: Kristen.A.Hafer@usace.army.mil.

FOR THE COMMANDER, GLENN O. PRATT, LIEUTENANT COLONEL, CORPS OF ENGINEERS, DISTRICT COMMANDER:



Shawn H. Zinszer
Chief, Regulatory Branch

Enclosure *CS*

Copy Furnished:
Oregon Department of State Lands (Landrum)
Oregon Department of Environmental Quality (Christensen)
Oregon Department of Land Conservation and Development (Hickner)